

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DELMUS WILKERSON,

Defendant.

8:20-CR-197

**ORDER REGARDING
MAGISTRATE JUDGE'S
FINDINGS AND RECOMMENDATION**

This matter is before the Court on the Magistrate Judge's Findings and Recommendation ([Filing 55](#)) recommending that the Court accept the defendant's plea of guilty. There are no objections to the findings and recommendation. Nonetheless, the Court declines to adopt the findings and recommendation at this time.

Pursuant to [28 U.S.C. § 636\(b\)\(1\)\(C\)](#) and [NECrimR 11.2\(d\)](#), the Court has conducted a de novo review of the record. Count I of the Indictment charges Defendant with violating [21 U.S.C. § 841\(a\)\(1\)](#) and [21 U.S.C. § 841\(b\)\(1\)](#). [Filing 1](#). Defendant is pleading guilty to "knowingly and intentionally possess[ing] with intent to distribute 10 grams or more of a mixture or substance containing a detectable amount of an analogue of fentanyl." [Filing 1](#). The Indictment does not allege prior convictions or serious bodily injury as a result of the use of the substance. Thus, he faces a statutory incarceration term of five years to forty years, a maximum fine of five million dollars, and a term of supervised release of "at least four years." [21 U.S.C. § 841\(b\)\(1\)\(B\)\(vi\)](#).

The Petition to Enter a Plea of Guilty ([Filing 57](#)) lists a maximum term of supervised release of four years. The Magistrate Judge advised the defendant accordingly. [Filing 60 at 8](#). Because Defendant was not informed of the maximum term of supervised release he faces, it is the Court's intent to further inquire into this matter at the sentencing hearing set for September 22, 2021. [Filing 56](#). At that time, the Court will decide whether Defendant's plea of guilty should be

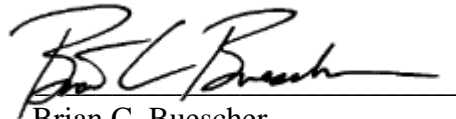
accepted and whether the matter should directly proceed to sentencing. Counsel should be prepared to address this issue via interlineation immediately prior to the sentencing hearing.

IT IS ORDERED:

1. The Magistrate Judge's Findings and Recommendation ([Filing 55](#)) is held in abeyance;
2. This matter will be addressed at the sentencing hearing set for September 22, 2021; and
3. This case shall provisionally proceed to sentencing.

Dated this 27th day of July, 2021.

BY THE COURT:

A handwritten signature in black ink, appearing to read "B. C. Buescher", is written over a horizontal line.

Brian C. Buescher
United States District Judge